

**REMARKS**

Reconsideration of the application is respectfully requested.

**I. Status of the Claims**

Claims 1 and 22 have been amended, no new matter is added.

Claims 18 and 19 were previously cancelled without prejudice or disclaimer.

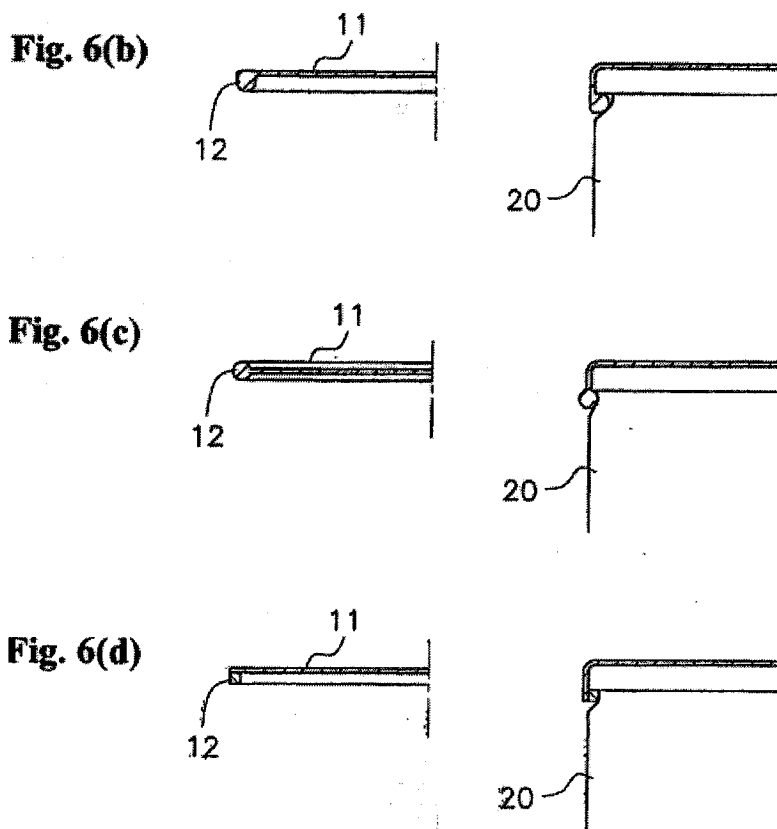
Claims 3-17 were withdrawn.

Claims 1-17 and 20-22 are pending, with claims 1-2 and 20-22 currently under examination.

**II. Rejections under 35 U.S.C. §§ 102 and 103**

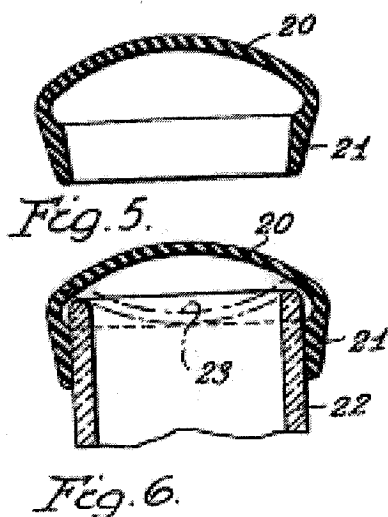
Claims 1, 20, and 22 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 2,266,270 to Roth. Claims 2 and 21 are rejected under 35 U.S.C. § 103(a) as unpatentable over Roth in view of the Examiner's statement of ordinary skill in the art. Applicants respectfully traverse.

Claim 1 has been amended to recite that "wherein a portion of said seal face part contacts said container above the seam part and below the top face." This feature is illustrated in Figures 6(b)-6(d), which appear on the next page:



As illustrated, the seal face part 11 is formed as a straight film, and the outer-perimeter part 12 is just formed on the outer perimeter of the seal face part and once the cap for the canned drink is placed on the can, a portion of the seal face is extended over the portion of the can above the seam part but below the top edge.

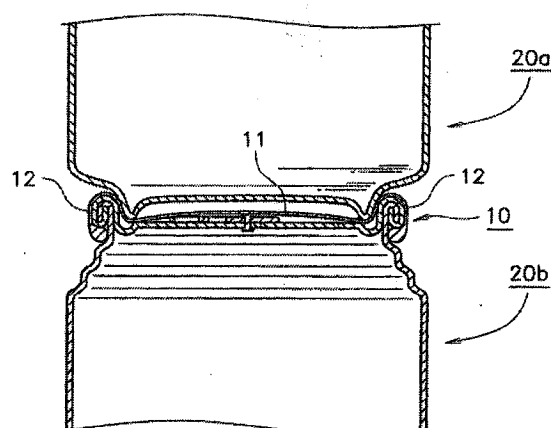
In contrast, Roth is formed of a crowned disk 20 and a tapered sealing lip 21. The sealing lip is deformed to seal to the container 22 and the crowned disk 20 does not contact the sides of the container. *See*, column 2, lines 27-44 and also Figures 5 and 6 which appear on the next page:



The crowned disk cannot contact the sides or it would lose the “crowned” feature when stretched, which would defeat Roth’s stated purpose of “the crowned disk 20 may be deflected to eliminate the presence of air...” Roth, column 2, lines 34-35.

Additionally, none of Roth’s other embodiments disclose a portion of a sealing face part contacting the container above the seam part and below the top face. Thus, Roth does not teach or suggest all of the elements of claim 1.

Regarding claim 22, Applicant disagrees that Roth’s embodiment in Figures 5 and 6 are “configured and arranged to deform to a bottom of said container for canned drinks to permit stacking of said container.” See Figure 8 below.



As noted above, Roth specifically designed his “Closure Means” to have a “crown” which requires the top of the “crowned disk” to extend above the top of the container. This arrangement will not deform to a bottom of a container for canned drinks to allow stacking. The

natural bias of the "crown" will displace the top container (20a). Thus, Roth does not teach or suggest all of the elements of claim 22.

Claims 2, 20, and 21 depend from claim 1 and are allowable based on the arguments above, in that Roth does not teach or suggest all of the elements of the claims.

Applicant respectfully requests that the rejections be withdrawn.

### **CONCLUSION**

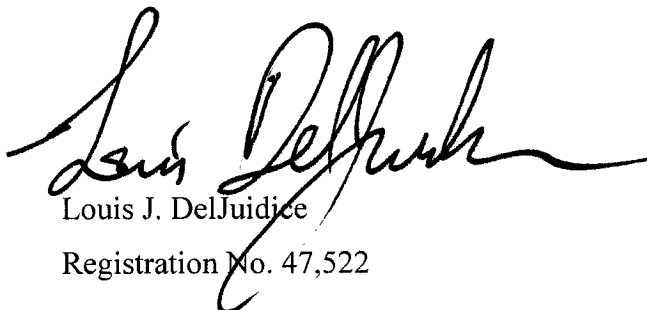
In light of the foregoing, it is believed the application is in condition for allowance and such allowance is earnestly solicited.

If the Examiner believes that there are any remaining issues which can be resolved by a Supplemental Amendment or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 associated with Customer No. 20277 and please credit any excess fees to such deposit account.

Respectfully submitted,

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**Date: May 19, 2010**